

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.920 of 2019

This the 9th Day of March, 2019

**Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)**

Divipty Dagar (Aged about 26 years)
D/o Sh. Jaswant Singh Dagar
R/o RZ 209, Aggarsain Park,
Main Nangloi Road, Nangloi Road,
Najafgarh, New Delhi.

Applicant for the post of
Assistant Teacher (Primary)
Post Code : 89/17
Roll No. 120108900547

(By Advocate : Shri T.N. Tripathi)

....Applicant

VERSUS

1. Delhi Subordinate Services Selection Board,
Through its Secretary,
FC-18, Institutional Area,
Karkardooma, Delhi.
2. The GNCTD
Through its Director of Education,
Old Secretariat, Delhi-110054.
3. North Delhi Municipal Corporation,
Through its Commissioner,
Civic Centre, New Delhi.
4. South Delhi Municipal Corporation,
Through its Commissioner,
South Zone, Sector-9, R.K. Puram,
5. East Delhi Municipal Corporation,
Through its Commissioner,
419, Udyog Sadan,
Patparganj Industrial Area,
Delhi-110096.

.....Respondents

O R D E R (Oral)

Ms. Nita Chowdhury, Member (A):

Heard learned counsel for the applicant at the admission stage itself.

2. By filing this OA, the applicant is seeking the following reliefs:-

- “(a) direct the respondents to consider the name of the applicant in OBC category in terms of the OBC certificate issued in favour of the applicant on 10.04.2010 instead of UR category for the post of PRT (Post Code 16/17 and 89/17).
- (b) Direct the respondents to consider the applicant for the post of PRT (Post Code 16/17 and 89/17) in OBC category, against Advertisement No.02/17 and 04/17, and in case the applicant is otherwise eligible, applicant should be given an offer of appointment for the post of PRT either for (Post Code 16/17 or 89/17)
- (c) To pass such other of further order(s) which their Lordship of the Hon'ble Tribunal deem fit and proper in the facts and circumstances of the present Original Application.”

3. Contention of the applicant is that she applied for the post of Primary Teacher, Post Code No.16/17 and Post Code No.89/17 in response to the advertisement Nos.02/17 and 04/17 issued by the respondents respectively. Although she belongs to OBC category but by mistake she mentioned her category as General in online application forms. Counsel also submitted that result in respect of Post Code No.16/17 has been declared and result in respect of Post Code No.89/17 is yet to be declared. Counsel further submitted that applicant

has submitted several representations in this regard but no response has been given by the respondents to the same till date and as such the applicant has approached this Tribunal for redressal of her grievance.

4. Counsel for the applicant by referring to OBC certificate annexed with the OA at page 40 of the paper book has also submitted that applicant belongs to OBC category and the said OBC certificate issued to her much prior to the closing date of submissions of applications and as such the respondents be directed to consider her candidature for the aforesaid post codes as an OBC candidate and not as a General candidate.

5. After hearing learned counsel for the applicant, we have raised a query to the learned counsel that only point for consideration in this case itself is whether the applicant, who had originally applied as a General Category by filling online applications forms, is entitled to change her category into OBC even after appearing and declaration of the result. Counsel for the applicant has not been able to give any plausible explanation or reasons in support of the claim of the applicant except what has already been noted above. It is pertinent to mention that similar issue had already been settled by the Hon'ble Supreme Court in the case of ***Union of India and others vs. Dalbir Singh & another*** in Civil

Appeal No.3409/2009 vide judgment dated 9.5.2009, the relevant portion of the said judgment reads as under:-

“10....In our opinion, having opted to consider his case only under OBC category, he cannot thereafter claim that his case requires to be considered in the general merit, only because, he has scored better percentage of marks than the last selected candidate in the general merit. In our considered view, the Administrative Tribunal having found that the appellants were justified in not considering the respondent’s case for appointment under OBC category, ought not to have directed the appellants to consider his claim under general category.”

6. Since the Hon’ble Supreme Court in the aforesaid case has categorically held that a candidate having opted to consider his/her case under a particular category, he/she cannot thereafter claim that his/her case requires to be considered in other category merit, only because he/she scored better percentage of marks than the last selected candidate in other category. We do not find any *prima facie* case is made out by the applicant for issuance of notice to the respondents. Therefore, we dismiss this OA being devoid of merit at the admission stage itself. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

/ravi/